

Article - Family Law

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§5–704.2.

(a) (1) In this section the following words have the meanings indicated.

(2) “Controlled drug” means a controlled dangerous substance included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V under Title 5, Subtitle 4 of the Criminal Law Article.

(3) “Health care practitioner” has the meaning stated in § 1–301 of the Health Occupations Article.

(4) “Newborn” means a child under the age of 30 days who is born or who receives care in the State.

(b) For purposes of this section, a newborn is “substance–exposed” if the newborn:

(1) displays a positive toxicology screen for a controlled drug as evidenced by any appropriate test after birth;

(2) displays the effects of controlled drug use or symptoms of withdrawal resulting from prenatal controlled drug exposure as determined by medical personnel; or

(3) displays the effects of a fetal alcohol spectrum disorder.

(c) Except as provided in subsection (e) of this section, a health care practitioner involved in the delivery or care of a substance–exposed newborn shall:

(1) make an oral report to the local department as soon as possible;
and

(2) make a written report to the local department not later than 48 hours after the contact, examination, attention, treatment, or testing that prompted the report.

(d) In the case of a substance–exposed newborn in a hospital or birthing center, a health care practitioner shall notify and provide the information required under this section to the head of the institution or the designee of the head.

(e) A health care practitioner is not required to make a report under this section if the health care practitioner:

(1) has knowledge that the head of an institution or the designee of the head or another individual at that institution has made a report regarding the substance-exposed newborn; or

(2) has verified that, at the time of delivery:

(i) the mother was using a controlled substance as currently prescribed for the mother by a licensed health care practitioner;

(ii) the newborn does not display the effects of withdrawal from controlled substance exposure as determined by medical personnel;

(iii) the newborn does not display the effects of fetal alcohol spectrum disorder; and

(iv) the newborn is not affected by substance abuse.

(f) To the extent known, an individual who makes a report under this section shall include in the report the following information:

(1) the name, date of birth, and home address of the newborn;

(2) the names and home addresses of the newborn's parents;

(3) the nature and extent of the effects of the prenatal alcohol or drug exposure on the newborn;

(4) the nature and extent of the impact of the prenatal alcohol or drug exposure on the mother's ability to provide proper care and attention to the newborn;

(5) the nature and extent of the risk of harm to the newborn; and

(6) any other information that would support a conclusion that the needs of the newborn require a prompt assessment of risk and safety, the development of a plan of safe care for the newborn, and referral of the family for appropriate services.

(g) Within 48 hours after receiving the notification pursuant to subsection (c) of this section, the local department shall:

(1) see the newborn in person;

(2) consult with a health care practitioner with knowledge of the newborn's condition and the effects of any prenatal alcohol or drug exposure; and

(3) attempt to interview the newborn's mother and any other individual responsible for care of the newborn.

(h) (1) Promptly after receiving a report under subsection (c) of this section, the local department shall assess the risk of harm to and the safety of the newborn to determine whether any further intervention is necessary.

(2) If the local department determines that further intervention is necessary, the local department shall:

(i) develop a plan of safe care for the newborn;

(ii) assess and refer the family for appropriate services, including alcohol or drug treatment; and

(iii) as necessary, develop a plan to monitor the safety of the newborn and the family's participation in appropriate services.

(i) A report made under this section does not create a presumption that a child has been or will be abused or neglected.

(j) The Secretary of Human Services shall adopt regulations to implement the provisions of this section.

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